

CENTEX CONSTRUCTION
COMPANY, INC.

CONTRACT NO. V101DC-0086

**VABCA-5455,
5897-5909**

VA MEDICAL CENTER
DALLAS, TEXAS

Gerald E. Gosch, Esq. and *Kevin Collins, Esq.*, Weston, Benshoof, Rochefort, Rubalcava & MacCuish, LLP, Los Angeles, California, for the Appellant.

Rheba C. Heggs, Esq., Trial Attorney; *Charlma J. Quarles, Esq.*, Deputy Assistant General Counsel; and *Phillipa L. Anderson, Esq.*, Assistant General Counsel, Washington, D.C., for the Department of Veterans Affairs.

ORDER DISMISSING APPEALS WITHOUT PREJUDICE

1. On November 4, 1999, the Board received Appellant's MOTION TO SUSPEND AND DISMISS APPEALS WITHOUT PREJUDICE in which Appellant moves to dismiss these appeals under Rule 30.
2. The above referenced MOTION follows previous communications informing the Board that Appellant's subcontractor, Fishbach and Moore, Inc., the real party in interest in these appeals, is presently unable to continue proceedings in these appeals.

3. Since Fishbach and Moore, Inc. is presently unable to proceed in these appeals and it does not appear that it may be in a position to so proceed within a reasonable time, the appeals of Centex Construction Company, Inc., VABCA-5455 and 5897-5909, are hereby DISMISSED WITHOUT PREJUDICE pursuant to Rule 30.

4. Either party may move at any time within three years to reinstate these appeals to the active docket provided it simultaneously furnishes the Board a proposed schedule for bringing these appeals to final disposition within 120 days from date of motion.

5. Pursuant to Rule 30, should action not be taken to reinstate these appeals to the active docket within three years, the dismissal of these appeals shall be deemed to be with prejudice without further notice from Board.

IT IS SO ORDERED

DATE: **November 5, 1999**

RICHARD W. KREMPASKY
Administrative Judge